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BY: *John W. A.*DATE: Nov. 26, 2001

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
David B. Loeper

Group Art Unit: 2164

Examiner: C. Kyle

Serial No.: 09/434,645 ←

Filed: November 5, 1999

For: METHOD, SYSTEM AND COMPUTER PROGRAM FOR AUDITING FINANCIAL PLANS

RESPONSE UNDER 37 C.F.R. 1.116

Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Official Action dated September 25, 2001, please consider the following remarks.

Claims 1 - 21 are pending. All claims stand finally rejected.

Claims 1 - 21 stand rejected as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,021,397 (Jones).

The rejection is respectfully traversed.

The method of Jones is a fundamentally different method from that of the invention. The method of the invention, as recited, for example, in claim 1, starts with an assumed asset allocation and values, and assumed future contributions or withdrawals, and *directly* applies to those assumptions results from *actual historical returns*. Thus, the investor can learn how a financial plan would have performed in the past. By contrast, Jones uses a *simulation* of future

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returns based on an econometric model. The method of Jones does not simulate the performance of a financial plan against real historical returns. Jones uses historical performance only to create a model employed in the simulation, not directly against values in a financial plan.

More specifically, the Examiner indicates, at page 3 of the Office Action, that Jones, at column 16, lines 12 – 24, calculates changes based on historical performance. In fact, Jones uses historical performance only to calculate a factor model. The historical returns are used only to calculate the assumptive statistics to be used for specific securities. As explained at col. 15, lines 57 to 67, the financial product exposure determination module 315 computes the factor asset class exposures for a particular fund via nonlinear estimation procedures. This procedure is designed to map assets onto a factor model. The historical data used is only from a single period, and is not used to simulate the performance of a financial plan. The result of this mapping is used in connection with return scenarios generated by factor module 310. These scenarios are used for the simulation of portfolio returns (col. 8, lines 50 – 55). Factor module 310 in turn is based on core asset scenarios generated by pricing module 305. Pricing module 305 is an equilibrium econometric model for forecasting prices and returns for a set of core asset classes. Thus, Jones engages in an attempt, using various statistical methods, to predict future returns, where the present invention uses historical data.

The Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention to have used additional and different historical data because this would have produced more accurate investment values in an iterative process of stepwise refined calculations. The Examiner states that the need for such flexibility is clearly suggested in the disclosure of a dynamic approach to rebalancing to maximize returns at column 18, lines 27 – 48. The Examiner is correct that there is a disclosure of predicting returns of a rebalanced portfolio. However, the reference to rebalancing is in the context of predicting performance based on simulations of future market performance generated by the pricing module 305. The notion of rebalancing refers to maintaining the same percentage invested in various securities or types of securities over time, even when those securities experience differing performance. To take a simple example, if the investor wishes to have 50% of the value of the assets in a retirement plan

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in bonds, and 50% in stocks, periodic sales of stocks or bonds, and reinvesting of the proceeds in the other, i.e., rebalancing, will be necessary, except in the rare instance where the change in value of stocks and bonds is equal over a given time period. The reference to rebalancing in Jones does not suggest the comparison of results against a variety of time periods. There is no disclosure in Jones of determining the results of the portfolio against historical market returns.

The Examiner indicates that Jones discloses, after one of the calculations, adjusting the investment based on at least one of a contribution amount and a withdrawal amount, at column 7, line 45, to column 18, line 48. In the method of Jones, this information is used in the portfolio optimization module 340. Rather than providing a result of following the plan in more than one historical period, including consideration of contributions and withdrawals, the method of Jones uses contribution and withdrawal information only in the optimization equation, Equation #7. This equation depends on the existence of a value of the user's risk tolerance in the abstract. The method of the invention requires no such assessment. Indeed, risk tolerance can only be realistically determined against a defined benefit to be achieved.

For these reasons, it is respectfully submitted that claim 1, as amended, is allowable over the prior art of record.

Claims 7 and 13, as amended, are similar to claim 1, and are allowable for the reasons that claim 1 is allowable.

Claims 2, 8 and 14 are allowable for the reasons that claim 1 is allowable.

Claims 3, 9 and 14 recite the use of different historical data for different asset categories. The method of Jones does not use historical data directly to simulate performance of different assets in a portfolio. Rather, historical data is used only indirectly in the financial product exposure module 315. For these reasons, as well as the reasons set forth above in connection with claim 1, claims 3, 9 and 14 are allowable over the prior art of record.

Claims 5, 11 and 17 are dependent claims reciting an adjustment to investment value to simulate tax effects. In Jones, the tax adjustment module adjusts the returns for taxes. The method of the invention may be used to calculate gross returns, and can therefore accommodate variables such as offsets of classes with losses against classes with gains, and carry forward

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losses. For these reasons, as well as the reasons set forth above in connection with claim 1, claims 5, 11 and 17 are allowable over the prior art of record.

Claims 6, 12 and 18 are allowable for the reasons that claim 1 is allowable.


Claim 19 relates to identification of historical intervals against which a financial plan is tested. Jones does not disclose historical time intervals, as Jones does not test a financial plan against historical market performance. This feature may permit the user to note that unacceptable results were obtained only when early years of the plan covered a severe bear market, such as from 1929 to 1939. Jones employs forecasts of future performance, so that this feature would be of no use in Jones. For this reason, as well as the reasons set forth above in connection with claim 1, claim 19 is allowable over the prior art of record.

Claims 20 and 21 are allowable for the reasons that claim 1 is allowable.

It is respectfully submitted that all of the pending claims are in condition for allowance. Early reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,

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MESSAGE: Please see attached AFTER FINAL response in Serial No. 09/434,645.

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